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13 April 1984

MEMORANDUM FOR: FPLG Reviewers of OSS Material

FROM:

Chief, FPLG

SUBJECT: Guidelines for the Review of OSS Files

1. The final screening of the OSS material will begin on 16 April 1984 with the holdings of approximately 198 cu.ft. currently at NARS.

2. The only segment of OSS documents at NARS that will not be included in this screening are the OSS War Diaries which are the subject of an FOIA request [redacted]. These will be released both to the requester as well as to NARS when the FOIA processing has been concluded.

3. The reviewers will be guided in their processing of the OSS holdings by the following:

a. A memorandum of understanding between NARS and CIA regarding the condition of release of any OSS documents by NARS will be signed by both parties.

b. The reviewers will insure in the first place that the procedures for declassifying the material were followed, and that those records still classified are properly tabbed. Specifically, they will review those files that might have been overlooked in the initial exercise. Also, if on the basis of their past reviews, they recognize particularly sensitive files, they will perform another review.

c. Particular attention will be given to files containing documents from foreign governments that might not have been tabbed during the declassification process.

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4. In general, the OSS material now again is being examined because of DO's equities in these files. In conducting this review, we accept that this material was reviewed by a duly constituted group of CIA officers whose guidelines for having made their determinations were similar to those which the DO would have applied. We also recognize that NARS assumes final responsibility for information released from those files. Therefore, our review must be conducted to ensure that officials at NARS are aware of sensitive material still contained in these files which will require continued protection.



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C O N F I D E N T I A L

19 April 1984

MEMORANDUM FOR: Chief, IMS
FROM: Chief, FPLG
SUBJECT: Briefing Paper - FPLG

1. FOIA

For the first time in FOIA history, there is a good chance that both houses of Congress will pass an FOIA relief bill. Under such a bill, the operational files of the DO will no longer be searched in response to FOIA queries. While it still would not be prudent to raise the topic of FOIA with agents, should the subject come up, however, it will now be possible to assure them that documents with their information will no longer be open to FOIA requests.

Remaining open to search will be documents with information on acknowledged CA operations, and those that relate to allegations of CIA wrongdoings. Also available for review under the new Act will be those DO records that have been sent outside the DO and were referred to the DO for processing under an FOIA request. For all practical purposes, however, those documents which contain only operational information will be protected in the future.

Under the new bill, all current FOIA exemptions remain in force. In particular, liaison information as well as any evidence of cooperation with a liaison service clearly is protected from release.

The Privacy Act continues to remain in force. However, foreign nationals cannot request information on themselves under the act.

2. Litigations

Increasingly, CIA becomes a defendant in litigations that involve agents, or employees, present or past. In such cases, sensitive information is jeopardized. The lesson we have learned is to avoid the recruitment of US persons with an uncertain legal record. In the [] case, for example, CIA now is being faulted for not heeding the fact that [] was convicted on embezzlement charges before we established an operational relationship with him.

Of particular concern are operations monitoring the transfer of sensitive U.S. technology to the Soviet Bloc or China. The difference between a cooperating source and an agent becomes significant when such cases come to court. If the reporting source merely informs CIA of activities in which he is directly involved, and from which he profits, we may run the risk of being party to a criminal activity, unless we take steps to stop the flow of such technology. On the other hand, if the reporting source is an agent,

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we must be able to show that he responded to our direction, acted in accordance with requirements, and continued his activities at our behest. Even then, if such a case is litigated, there is a chance that sensitive information may have to be introduced into the legal proceedings.

In general, operations involving US persons reporting on narcotics, commercial matters, smuggling, etc. run the risk of making CIA party to a defense plea. CIA then must show that it either was, or was not, responsible for the actions of the defendant. In either case, sensitive documents can expected to be introduced into court, either in camera, or in an open hearing. The risk of jeopardizing operational equities in such cases is high.

3. OSS Files

The OSS files currently are undergoing a final reexamination for sensitive material before NARS will assume full responsibility for them. We would be interested in any reactions, in particular from liaison, that might affect the manner in which these records are currently being examined.



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3. Mike J	MJ	26 APR 84
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REMARKS

Guidelines for
Review of OSS
records

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